FEDERAL TRADE COMMISSION

FISCAL YEAR 2002
CONGRESSIONAL JUSTIFICATION

Budget Summary

Table of Contents

FISCAL YEAR 2002 OVERVIEW STATEMENT AND BUDGET REQUEST

BACKGROUND

The FTC is the only federal agency with both consumer protection and competition jurisdiction over broad sectors of the economy. The FTC enhances consumer welfare by eliminating unfair or deceptive acts or practices in the marketing of goods and services and by ensuring that markets function competitively. The FTC's mission -- putting accurate information in the hands of consumers and promoting competition among producers -- brings the best products and lowest prices to the marketplace, spurs innovation, and strengthens the economy.

FY 2000 was a busy and productive year for the FTC. Among other accomplishments, the FTC-

- Saved consumers an estimated $3.2 billion from law enforcement actions to stop anticompetitive mergers and fraud -- a savings of $26 for each $1 spent on FTC operations.

- Issued "Marketing Violent Entertainment to Children," a report finding pervasive and aggressive marketing of violent movies, music and electronic games to children. The FTC found that such marketing undermines the credibility of industry parental advisory labels and ratings and frustrates parents' attempts to make informed decisions about their children's exposure to violent content. The report urges reforms to industry self-regulatory systems.

- Reviewed increasingly large and complex Hart-Scott-Rodino merger filings. The dollar value of reported mergers in FY 2000 was nearly $3 trillion, a 63% increase over the previous year, and a 1,769% increase since 1991. The FTC took corrective action against the anticompetitive effects of large oil mergers, resulting in the largest divestitures in FTC history.

- Brought 49 Internet-related enforcement actions, a total of 149 since 1994. These actions, targeting corporate and individual defendants, have stopped new high-tech frauds as well as more traditional types of fraud.

- Proceeded with litigation in *Mylan Laboratories*, a case involving alleged overcharges to consumers for prescription drugs, leading to a settlement, early in FY 2001, in which the defendant agreed to pay $100 million in consumer redress - a direct, tangible return to consumers that substantially exceeds the entire annual cost of the Maintaining Competition Mission.

- Protected consumers against identity theft by deploying a new toll-free number (1-877-ID-THEFT), establishing a central clearinghouse for identity theft complaints, and making data available to law enforcement partners through a secure online Web site. Calls per week to the new number have increased from 400 a year ago to more than 2,200 today.

- Built on the success of *Consumer Sentinel*, a secure online complaint database shared with 1,200 other law enforcers across the country and in Canada, to develop *Soldier Sentinel*, a similar database capturing complaints from members of the military, and *Public Sentinel*, to give the public access to statistics and trends on consumer fraud.

CURRENT CHALLENGES

The FTC's FY 2001 appropriation provides the agency with additional staff to meet the challenges presented by the 21st Century marketplace in both its Consumer Protection and Competition Missions. The additional resources already have yielded benefits.

Consumer Protection Mission

In the Consumer Protection Mission, the added resources have been focused on high-priority areas – Internet fraud, identity theft, privacy, international law enforcement, and the marketing of violent entertainment products.

Internet Fraud. Stopping Internet fraud continues to absorb considerable resources. In FY 2001, the FTC led the first and largest global law enforcement sweep in its history, targeting the top 10 Internet scams, based on information from *Consumer Sentinel.* The sweep led to 250 law enforcement actions brought by five U.S. agencies and consumer protection organizations from nine countries and 23 states. The FTC also brought four cases in which consumers were cheated and overcharged in a high-tech scheme involving modem dialer software – the software was used to disconnect a computer modem from the local Internet service provider, dial an international telephone number, and then reconnect the modem to the Internet from some overseas location. Two other cases brought by the FTC involved the practice of placing unauthorized charges for Internet-related services on consumers' telephone or credit card bills. Finally, as part of "Project Safebid," the FTC charged defendants in three cases with failing to deliver merchandise to consumers whose bids "won" auctions. The FTC also trained hundreds of state and local law enforcement personnel on how to prosecute auction fraud as part of this project.

Identity Theft. In October 2000, the FTC hosted an Identity Theft Victim Assistance Workshop, bringing together more than 170 representatives – victims, consumer advocates, representatives of the financial services industry and credit bureaus, and law enforcement agencies – to discuss the problems encountered in trying to restore a good name and financial record after identity theft has occurred. The FTC is currently leading an effort, along with public and private sector partners, to streamline the process for victims to report ID theft and restore their credit histories.

Privacy. In December 2000, the FTC hosted a workshop, "The Mobile Wireless Web, Data Services and Beyond: Emerging Technologies and Consumer Issues," to examine the privacy, security and consumer protection issues raised by emerging wireless Internet and data technologies. In March 2001, the FTC hosted a workshop, "The Information Marketplace: Merger and Exchange of Consumer Information," to address issues raised by the creation of detailed consumer profiles through the merger or exchange of data, whether online or offline.

International Law Enforcement. The FTC continues to play a key role in meeting the law enforcement challenges posed by the global electronic marketplace. In its capacity as president of the International Marketing Supervision Network (an organization of consumer protection agencies from 29 countries), the FTC has made strides in overcoming hurdles in cross-border law enforcement cases. The FTC also entered into bilateral consumer protection cooperation and information sharing agreements with the United Kingdom and Australia.

The FTC has also hosted public meetings to explore cutting-edge international issues. Most recently, the agency followed up on efforts begun last year with the Department of Commerce and held a roundtable to explore dispute resolution for cross-border online transactions. The FTC is also participating in forums considering e-commerce issues: the Organization for Economic Cooperation and Development, the Hague Conference on Private International Law, the Transatlantic Consumer Dialogue, the Transatlantic Business Dialogue, the Free Trade Area of the Americas, the International Marketing Supervision Network, and others. Last fall, the FTC issued "Consumer Protection in the Global Electronic Marketplace," a report that focuses on issues explored in these international forums.

Marketing Violent Entertainment Products. In response to congressional requests, the FTC is preparing to follow up its September 2000 report "Marketing Violent Entertainment to Children" with two additional reports determining whether violent movies, explicit-content labeled music, and electronic games continue to be marketed to children under the age designated in the rating or label.

Maintaining Competition Mission

The Maintaining Competition Mission has made effective use of the additional resources provided it in FY 2001 to investigate increasingly large and complex merger transactions and to renew an agency emphasis on anticompetitive nonmerger activity.

Resolution of Merger Investigations. So far in FY 2001, the FTC has resolved major mergers in industries with significant consumer impact, including *AOL/Time Warner* in communications, *SmithKline Beecham/Glaxo Wellcome* and *Novartis/AstraZeneca* involving pharmaceuticals, and *Philip Morris/Nabisco* in the food industry.

Hart-Scott-Rodino Act (HSR) Reforms. Recent HSR reforms raised the merger filing threshold from $15 million to $50 million, which will result in fewer filings for the FTC to review. With fewer filings to review, the FTC is shifting some competition resources to drafting implementing regulations and conducting outreach to members of the bar and business communities on the new provisions. The reduction in the number of filed transactions, however, is not likely to reduce the overall burden on the FTC's merger program. Significant resources still need to be devoted to the increasingly large and complex merger transactions that involve numerous product and geographic market combinations. Further, the change in the filing threshold will not affect the substantive criteria used to determine which transactions may be anticompetitive and warrant investigation. Although only one enforcement action over the past two years has involved a transaction below the new, higher filing threshold, we are mindful that smaller anticompetitive mergers can still have a significant negative impact on consumers and communities. To ensure consumers are protected from problematic transactions below the new filing threshold, we will devote resources to develop enhanced ways to identify mergers that are not subject to filing but may still pose competitive harm.

Efficient Merger Investigations. In FY 2001, the FTC is continuing efforts to make the merger investigation process more efficient. Agency staff worked closely during FY 2000 with business groups, members of the bar, and key legislators to develop ways to improve merger investigations that enhance the efficiency of the process while preserving the agency's ability to obtain the information needed to identify and prevent anticompetitive mergers. Based on these efforts, the FTC has taken steps to improve the process, including requiring high-level management review of requests for additional information ("second requests") before issuance, meeting with merger parties to discuss competitive issues soon after issuance of a second request, responding promptly to requests for modification of second requests, and establishing an appeal procedure for unresolved issues relating to the scope of second requests.

Non-merger Investigations. In addition to settling the historic *Mylan Laboratories* matter, the FTC's non-merger program is also engaged in other important investigative efforts. These "other" efforts focus on merging technologies, standard setting, industries that are converging (such as electricity and energy), and the Internet. The FTC will also examine possibly illegal patent extension strategies and standard setting practices in rapidly-developing industries, such as the computer technology field. Finally, the FTC is watching the emerging Business-to-Business (B2B) marketplace, making use of information gathered in a related hearing held last summer.

FISCAL YEAR 2002 REQUEST

The FTC's ability to continue to perform its mandated functions in today's economy requires adequate staffing and technical support. This request for $156,270,000 and 1,074 full time equivalent staff years (FTE) provides the baseline resources needed in FY 2002 to fund the performance levels supported by the FTC's FY 2001 appropriation. The $9,116,000 increase over the agency's FY 2001 appropriation includes-

- $5,666,000 to fund mandatory pay and inflation costs.

- $2,773,000 for 25 FTE to fully annualize the 70 new FTE provided in FY 2001.

- $677,000 to provide temporary office space. A General Services Administration held lease for existing satellite office space expires February 2002. Congress has authorized the GSA in September of FY 2000 to obtain a new lease on the FTC's behalf. GSA estimates that the time needed for a full and fair competition will not permit the FTC to occupy space under a new lease until early in FY 2003.

HART-SCOTT-RODINO PREMERGER FILING FEES

As presented, the FTC's FY 2002 request will be fully funded by fees assessed on Hart-Scott-Rodino Act (HSR) premerger notification filings by section 605 of Public Law 101-162, as amended effective February 1, 2001, in Section 630 of Public Law 106-553, the FY-2001 Commerce-Justice-State Appropriations Act. This amendment raised the HSR pre-merger filing threshold from $15 million to $50 million, and replaced a single filing fee of $45,000 with a three tiered structure. Tier one requires, for all transactions above $50 million but less than $100 million, a $45,000 fee. Tier two requires, for all transactions at or above $100 million but less than $500 million, a $125,000 fee. And, tier three requires, for all filings at or above $500 million, a $280,000 fee.

GOVERNMENT PERFORMANCE AND RESULTS ACT ("GPRA") STRATEGIC AND PERFORMANCE PLANNING

This FY 2002 budget request is based on, and is an integral part of, the FTC's GPRA strategic and performance process. The performance plans and measures, located in a subsequent section of this submission, have been updated to, among other changes, provide a more accurate assessment of the dollar savings to consumers that are expected from FTC actions. As in the past, the FTC will work closely with its stakeholders to ensure that its strategic and performance plans and reports continue to assist the FTC in protecting consumers and meeting the evolving demands of the marketplace.

FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT

The Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA") amends the Federal Deposit Insurance Act to impose certain disclosure requirements on non-federally insured depository institutions and to require that the FTC prescribe the manner and content of those disclosures. The FDICIA also authorizes the FTC, in consultation with the Federal Deposit Insurance Corporation, to exempt depository institutions from a prohibition that bars them from taking or facilitating the taking of deposits, unless the state supervisor where the institution is chartered has determined that the institution meets all eligibility requirements for federal deposit insurance.

In communications with Congress and the Office of Management and Budget, the Commission has consistently opposed the FDICIA's assignment of these responsibilities to the FTC. Consistent with prior year appropriation language, the proposed appropriation language for FY 2002 continues to prohibit the FTC from spending funds on enforcement responsibilities imposed on it by FDICIA.

Budget Justification Summary

($ in thousands)

Budget by Mission:	Fiscal Year 2001 FTE	Fiscal Year 2001 Dollars	Fiscal Year 2002 FTE	Fiscal Year 2002 Dollars	Change FTE	Change Dollars
Consumer Protection	557	$77,790	570	$82,772	13	$4,982
Maintaining Competition	492	69,364	504	73,498	12	4,134
Total	1,049	$147,154	1,074	$156,270	25	$9,116

Budget by Organization:

	FY 2001 FTE	FY 2001 Dollars	FY 2002 FTE	FY 2002 Dollars	Change FTE	Change Dollars
Headquarters	903	$132,213	928	$140,648	25	$8,435
Regions	146	14,941	146	15,622	0	681
Total	1,049	$147,154	1,074	$156,270	25	$9,116

Budget by Funding Source:

	FY 2001 Dollars	FY 2002 Dollars	Change Dollars
Filing Fees Current Year	$145,254	$156,270	$11,016
Filing Fees Prior Year	1,900	0	-1,900
Total	$147,154	$156,270	$9,116

Summary of Changes
($ in thousands)

	FY 2001 Estimate	FY 2002 Estimate	Net Change
Budget Authority	$147,154	$156,270	+$9,116
Full-time Equivalents.	1,049	1,074	+25

Explanation of Change:	FTE	Dollars
Base Adjustments:		
To provide for annualization of the FY 2001 pay raise	- - -	+$1,094
To provide for a pay increase effective January 2002.	- - -	+2,589
To provide for increases in benefits, within-grades, and promotions. . . .	- - -	+1,007
To provide for increased costs in other non-personnel services.	- - -	+976
To provide for annualization of additional FTE received in FY 2001.	+25	+2,773
To provide for temporary space and increased rental costs	- - -	+677
Total Change	+25	+$9,116

Annual Performance Plan Objectives by Program FTE

Consumer Protection Mission

	Fiscal Year 2001					Fiscal Year 2002			
	CP Obj. 1	CP Obj. 2	CP Obj. 3	Prgm. Total		CP Obj. 1	CP Obj. 2	CP Obj. 3	Prgm. Total
Advertising Practices	7	54	2	63		7	55	2	64
Marketing Practices	12	127	5	144		13	129	5	147
Financial Practices	6	44	2	52		6	47	2	55
Enforcement	3	49	2	54		3	50	2	55
Planning & Information	49	6	5	60		52	6	5	63
Consumer & Business Education	0	0	12	12		0	0	12	12
Economic & Consumer Policy Analysis	0	5	1	6		0	5	1	6
Program Management	7	18	2	27		7	18	2	27
CP Mission Support	28	101	10	139		29	102	10	141
Total Mission	**112**	**404**	**41**	**557**		**117**	**412**	**41**	**570**

Maintaining Competition Mission

	Fiscal Year 2001					Fiscal Year 2002			
	MC Obj. 1	MC Obj. 2	MC Obj. 3	Prgm. Total		MC Obj. 1	MC Obj. 2	MC Obj. 3	Prgm. Total
Premerger Notification	19	0	12	31		17	0	11	28
Merger & Joint Venture Enforcement	11	182	11	204		11	190	11	212
Merger & Joint Venture Compliance	1	13	1	15		1	14	1	16
Nonmerger Enforcement	4	85	4	93		5	86	5	96
Nonmerger Compliance	0	5	0	5		0	6	0	6
Antitrust Policy Analysis	2	2	2	6		2	3	2	7
Other Direct Mission Resources	4	7	4	15		4	7	4	15
MC Mission Support	14	98	11	123		13	100	11	124
Total Mission	**55**	**392**	**45**	**492**		**53**	**406**	**45**	**504**

Consumer Protection Justification

Goal 1: To prevent fraud, deception, and unfair business practices in the marketplace.

Objective 1: Identify fraud, deception, and unfair practices that cause the greatest consumer injury.

FY 2002 Budgeted Resources: *117 FTE* *$17,061,000*

Change from Prior Year: *5 FTE* *$1,353,000*

To identify consumer protection problems and trends in the fast-changing, increasingly global marketplace, the FTC is making creative use of new technologies and building on its broad base of private and public sector partners. It is expanding dramatically its capacity to collect consumer complaints through its toll-free helpline and online consumer complaint form. It has created a comprehensive information system with a segmented database for consumer fraud complaints and identity theft complaints. The fraud module, *Consumer Sentinel*, is accessible online to over 250 law enforcement partners in the United States, Canada, and Australia.

Through its database and other data collection efforts, such as Web surveys ("Surf Days") and systematic analysis of data, the FTC and its law enforcement partners are able to identify and target the most serious cases of fraud and deception, coordinate their efforts, and respond quickly to emerging problems.

Objective 2: Stop fraud, deception, and unfair practices through law enforcement.

FY 2002 Budgeted Resources: *412 FTE* *$59,748,000*

Change from Prior Year: *8 FTE* *$3,391,000*

E-commerce

As e-commerce grows, so too do online frauds and deception. Law enforcement resources will be used to address: new forms of complex and fast moving high-tech frauds; expected growth in deceptive online health claims (increasingly outside FDA's jurisdiction); online privacy practices that violate Section 5 of the FTC Act and the Children's Online Privacy Protection Act; and the need to train law enforcement partners to keep pace with technology-based scams.

The FTC aims to be at the forefront in educating its law enforcement colleagues nationwide and internationally on the newest technologies and how to bring cases involving those technologies (using *Consumer Sentinel*). As the Internet grows, so too does the need for coordinated law enforcement to meet the consumer protection challenges. The underpinning of that effort is a highly educated cadre of law enforcement partners.

Globalization

As the marketplace becomes more global, challenges for consumer protection grow apace. The FTC's role in leading international law enforcement initiatives and developing global consumer protection policies will continue to expand. We will: build new international partnerships to tackle cross border fraud through information sharing and coordinated law enforcement; and participate in international efforts to craft policies and self-regulatory programs to protect consumers in the global marketplace.

New Statutory Changes

Under the Financial Modernization Act, (Gramm-Leach-Bliley), the FTC is responsible for enforcing the Act's privacy provisions with respect to hundreds of thousands of financial institutions. To implement the Act, the FTC will provide extensive business guidance to institutions covered by the new G-L-B rule, and begin to enforce the rule (effective July 1, 2001). In addition, the FTC will continue to implement other new statutory responsibilities under the Identity Theft and Assumption Deterrence Act of 1998 and the Children's Online Privacy Protection Act.

Objective 3: Prevent consumer injury through education.

FY 2002 Budgeted Resources: *41 FTE* *$5,963,000*

Change from Prior Year: *0 FTE* *$238,000*

Information gaps are greatest in areas of the marketplace that are changing rapidly. Thus, our education efforts will focus on consumer problems resulting from the growth of e-commerce, new types of e-commerce, new types of technology-based products and services, deregulation, and globalization. The FTC will make creative use of new technologies and private and public sector partners to reach new audiences, including underserved consumer audiences, businesses, and law enforcement offices. We will increase public awareness of our programs and how to contact the FTC to obtain information or file a complaint.

Annual Performance Measures
FY 2000 actuals as of September 30, 2000

	FY 2000 Actual	FY 2001 Target	FY 2002 Target
Consumer Protection Mission **Goal 1: Prevent fraud, deception, and unfair business practices in the marketplace.**			
Objective 1.1–Identify fraud, deception, and unfair practices that cause the greatest consumer injury:			
Measure 1.1.1: Cumulative number of consumer complaints and inquiries entered into database.[1]	833,659	--	--
Measure 1.1.1: Annual number of consumer complaints and inquiries entered into database.[2]	--	350,000	400,000
Objective 1.2–Stop fraud, deception and unfair practices through law enforcement:			
Measure 1.2.1: Dollar savings for consumers from FTC actions which stop fraud.	$265 million	$400 million	$400 million
Measure 1.2.2: (FY 1999-2000) Percentage of targeted industry brought into compliance through law enforcement and self regulation.[1]	83%	--	--
Measure 1.2.3: (FY 2001-2002) Total expenditures of deceptive or unfair advertising campaigns stopped.[2]	--	$300 million	$300 million
Objective 1.3–Prevent consumer injury through education:			
Measure 1.3.1: Number of education publications distributed to or accessed electronically by consumers.	11.0 million	10.0 million	10.5 million

1. Measure was deleted in the Strategic Plan for FYs 2000-2005.
2. Measure was added in the Strategic Plan for FYs 2000-2005.

Maintaining Competition Justification

Goal 2: To prevent anticompetitive mergers and other anticompetitive business practices in the marketplace.

Objective 1: Identify anticompetitive mergers and practices that cause the greatest consumer injury.

FY 2002 Budgeted Resources: *53 FTE* *$7,712,000*

Change from Prior Year: *-2 FTE* *-$63,000*

Proposed merger transactions are submitted to the FTC in compliance with the notification and filing requirements of the *HSR Act*. The dollar value and complexity of reported transactions continues to rise steadily. Premerger review for large transactions is typically much more complex and time-consuming than for smaller transactions, as the number of markets and amount of commerce affected is typically greater. Processing this increasing workload, which we have kept up with through increased productivity and streamlining efforts, requires the use of all FTE distributed to this objective.

Objective 2: Stop anticompetitive mergers and practices through law enforcement.

FY 2002 Budgeted Resources: *406 FTE* *$59,242,000*

Change from Prior Year: *14 FTE* *$3,945,000*

Maintaining competitive markets through effective antitrust law enforcement is integral to a healthy U.S. economy. The FTC plays a vital role in this effort by bringing cases to enjoin anticompetitive mergers and to halt anticompetitive business practices.

To keep up with increasingly large and complex merger transactions, the Maintaining Competition Mission has been shifting its available resources from nonmerger activities to the merger arena. Dollar values of reported mergers have increased eighteen-fold in nominal terms, from $169 billion in 1991 to nearly $3 trillion in 2000. Nonmerger business practices that need antitrust scrutiny will continue to require additional law enforcement resources.

The sophistication and complexity of merger and nonmerger investigations continues to increase, stretching our resources even more than just the volume of cases. For example, many of the transactions and practices that raise anticompetitive issues involve highly technological industries, such as defense and aerospace, cable television, and information technology, as well as the growing field of health care services, including hospitals, nursing homes, health maintenance organizations and pharmaceutical companies. The increasing data and econometric emphasis in antitrust investigations and litigation requires that we spend more resources understanding the issues raised. Our accounting and economic resources are challenged heavily as merging firms rely on complex accounting, econometric and other data intensive economic studies regarding competitive effects, entry issues, and efficiency and failing company defenses. More significantly, merger challenges that are litigated through preliminary injunction actions in federal court or through administrative trials absorb major commitments in resources -- both in FTC personnel and program dollars.

The FTC must also spend resources to maintain an effective compliance program so that consumers receive the benefits of competition obtained through the FTC's investigation and litigation efforts. This objective focuses on structuring and reviewing compliance orders in individual matters, as well as on conducting general and historical analyses, and on the effectiveness of various kinds of merger and nonmerger orders, such as divestiture orders.

Objective 3: Prevent consumer injury through education.

FY 2002 Budgeted Resources:	*45 FTE*	*$6,544,000*
Change from Prior Year:	*0 FTE*	*$252,000*

The Commission increases awareness of antitrust law through guidance to the business community; outreach efforts to Federal, state and local agencies, business groups and consumers; development and publication of antitrust guidelines and policy statements; and speeches and publications.

Annual Performance Measures

FY 2000 actuals as of September 30, 2000

	FY 2000 Actual	FY 2001 Target	FY 2002 Target
Maintaining Competition Mission **Goal 2: Prevent anticompetitive mergers and other anticompetitive business practices in the marketplace.**			
Objective 2.1–Identify anticompetitive mergers and practices that cause the greatest consumer injury:			
Measure 2.1.1: (FY 1999-2000) Average number of days for review of HSR-reported transactions.[1]	18	--	--
Measure 2.1.2: Number of nonmerger investigations opened per year.	25	45-70	45-70
Measure 2.1.3: (FY 2001-2002) Percent of HSR second requests resulting in enforcement action.[2]	--	50%	50%
Objective 2.2–Stop anticompetitive mergers and practices through law enforcement:			
Measure 2.2.1: Positive outcome of cases brought by FTC due to alleged violations.	95%	80%	80%
Measure 2.2.2: Dollar savings for consumers resulting from FTC actions stopping anticompetitive mergers.	$2.98 billion	$800 million	$800 million
Measure 2.2.3: (FY 1999-2000) Average time, in months, from proposed consent orders to divestitures.[1]	4	--	–
Measure 2.2.4: Dollar savings for consumers resulting from FTC actions stopping anticompetitive nonmerger activity.[2]	--	$200 million	$200 million
Objective 2.3–Prevent consumer injury through education:			
Measure 2.3.1: (FY 1999-2000) Identify and survey FTC "customers" in the marketplace.[1]	incorporate input	--	--
Measure 2.3.2: (FY 1999-2000) Average number of days to issue advisory opinions in health care area:[1]	84	--	–
Measure 2.3.3: (FY 2001-2002) Quantify number of education and outreach efforts.[2]	--	establish baselines	establish baselines
Measure 2.3.4: (FY 2001-2002) Quantify number of hits on antitrust information on FTC Web site.[2]	--	establish baselines	establish baselines

1. Measure was deleted in the Strategic Plan for FYs 2000-2005.
2. Measure was added in the Strategic Plan for FYs 2000-2005.

Management Initiatives

To improve the efficiency of agency operations, the Government Performance and Results Act of 1993 (GPRA) requires a brief description of the technology and human capital support needed to meet agency goals. The Administration recently reinforced this objective by asking agencies to incorporate complementary management initiatives into their performance plans.

The FTC has a strong record of success in enhancing the human and technology systems and procedures needed to accomplish the agency's goals. In many instances, described below, these successes and our current plans mirror the intent of the GPRA and the Administration's performance initiatives.

Streamlining Efforts

Throughout the last decade, the FTC faced significant demands on its resources. The economy became increasingly global, the size and scope of merger transactions reviewed under the Hart-Scott-Rodino Act rose significantly, and, most recently, consumer protection responsibilities have increased because of rapidly expanding technology -- most notably, the Internet. And, until FY 1999, FTC funding increases primarily covered only mandatory pay and price increases. Responding to these demands, the FTC has undergone, and continues to undergo, significant streamlining efforts.

- Established a Consumer Response Center drawing investigators and contact representatives from five Consumer Protection divisions and eight regional offices to effectively answer public inquiries and capture complaint information in a central database.

- Employed more paralegal staff to assist attorneys, particularly in document-intensive merger, non-merger and consumer protection investigation and litigation activities.

- Reduced staff support positions in the Office of the Executive Director by 24%, thereby allowing the transfer of FTE to mission-critical law enforcement programs.

- Reconfigured regional office operations to improve the nationwide delivery of consumer protection services, including to under served communities, and to create "competition centers" in selected regions with a staff size sufficient to investigate large and complex competition cases.

- Leveraged program efforts through cooperative arrangements with international, state, and other federal law enforcement agencies and private sector organizations in order to obtain the greatest consumer benefit for each dollar spent on both law enforcement and education efforts.

- Made greater use of technology across the agency to leverage human capital and other resources.

Human Capital

The FTC is currently addressing the management of its human capital to ensure it has the staff needed to fulfill its mission to protect consumers and maintain competition in the marketplace. While the FTC historically has had an enthusiastic and highly capable professional staff, it currently faces significant competitive pressures from the private sector, particularly for attorneys, economists, and information technology professionals with experience in mergers and Internet-related issues. For example, the compensation for first-year attorneys in the private sector is often three times higher than that available to most Government agencies.

To continue to attract and retain talented professionals, the FTC has formed a human resource task force consisting of professional staff from across the agency. The task force's overall purpose is to maintain and enhance the agency's high-quality workforce by evaluating the impact on FTC staff of a variety of human resource issues. Currently, the task force is focusing on attorney and economist recruitment, development, and retention. Included among the monetary solutions under review are higher starting salaries, recruitment and retention bonuses, student loan repayments, and increasing the performance awards budget. Non-monetary solutions under review include enhancing training and professional development, creating an even more family-friendly work environment, and exploring non-traditional recognition programs.

As solutions are identified and approved, they will be integrated into the FTC's human resource management, budgeting, and strategic planning processes. In FYs 2001 and 2002, the FTC will provide needed training to staff to keep pace with the broadening technological and international scope of the agency's law enforcement and other program activities. Further, the Commission will continue to evaluate whether the mix of staff resources it allocates to various programs is appropriate in light of changes in the marketplace, and to identify and, where appropriate, use "best practices" adopted by other government agencies and the private bar in training new FTC staff.

Performance-based Contracts

Performance-based contracting is a relatively new way of doing business in the Federal government and focuses on the results rather than the process by which those results are achieved. During FY 2001, the FTC awarded its first performance-based contract -- a Help Desk contract for computer-based hardware and software services. For this contract we developed specific standards to measure the contractor's performance in meeting selected results. As this contract is implemented and administered, our process will be further refined. The lessons learned will be applied to future performance-based contracts. As a small federal agency , our opportunity for expanding the use of performance-based contracts is limited. However, as other agency-wide support service requirements become eligible for re-competition, we will assess each to determine if a performance-based contract is the best option.

On-line Procurement

The FTC is currently using several online procurement mechanisms and is in the process of reviewing others.

Current Online Procurement Mechanisms:

- Using *GSA Advantage*, a government-wide procurement tool that allows customers to purchase supplies online from approved providers using purchase cards.

- Publishing solicitations of requirements on the Internet. Recently, the FTC used the Internet to announce the solicitation for its performance-based Help Desk requirement.

  Future Plans:

- Converting, by October 1, 2001, to *FedBizOpps,* a single point of entry on the Internet for vendors where all government procurement requirements will be announced.

- Assessing the current capability of the FTC's systems to receive and process electronic invoices. We currently receive our purchase card invoices electronically and are in the process or reviewing this option with one of our vendors.

- Exploring the possibility of electronic receiving reports, which would require the use of electronic signatures.

Technology Initiatives

The FTC's Information and Technology Management Office's (ITMO) efforts in FYs 2001 and 2002 will continue to focus on providing the support and technology initiatives needed by the Commission's bureaus and offices and administrative processes to efficiently accomplish the agency's goals.

Planned enhancements to existing services and products:

- Electronic Filing of Premerger Notification Forms-bringing an existing paper-based process into compliance with the Government Paperwork Elimination Act (GPEA). This will lay the groundwork for bringing other agency processes into GPEA compliance.

- "Orders" Database-creating a database of defendants subject to Commission orders.

This database will be easily accessible to the public through the FTC Web site.

Electronic Records Project - developing a computer application designed to better house and enhance staff use of electronic versions of agency documents.

- Consumer Outreach - improving the effectiveness of interactions between the Commission and the public as well as the mechanisms for disseminating information.

- Electronic Courtroom - Outfitting selected agency hearing rooms with current technologically to aid staff in preparing for and conducting litigation.

- Desktops and Peripherals - Replacing some traditional personal computer (pc) desktop machines with "port replicators" and laptop pc's to facilitate efficient remote connections to agency computers by staff while on travel.

Expanding A-76 Competitions and More Accurate FAIR Act Inventories

As discussed in the Streamlining Efforts section, the FTC has reviewed and evaluated many of its processes and functions to increase efficiencies and realign staffing resources where they are required most. As part of this streamlining effort, the agency has identified functions performed by federal employees that might be performed by commercial entities. Between FYs 1999 and 2000, the FTC reduced its FAIR Act inventory by 21%, from 42 to 33, by contracting for the affected services. While continuing to maximize our efficiencies, we will continue to review our current Fair Act inventory for similar opportunities.

Proposed Appropriations Language

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $2,000 for official reception and representation expenses, [$145,254,000]: *$156,270,000* *Provided,* That not to exceed $300,000 shall be available for use to contract with a person or persons for collection services in accordance with the terms of 31 U.S.C. 3718, as amended: *Provided further*, That, notwithstanding section 3302(b) of title 31, United States Code, not to exceed [$145,254,000] *$156,270,000* of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. [18(a)] *18a*) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the general fund shall be reduced as such offsetting collections are received during fiscal year [2001] *2002*, so as to result in a final fiscal year [2001] *2002* appropriation from the general fund estimated at not more than $0, to remain available until expended: *Provided further,* That none of the funds made available to the Federal Trade Commission shall be available for obligation for expenses authorized by section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102-242, 105 Stat. 2282-2285). *(Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, as enacted by section 1(a)(2) of (P.L. 106-553).)*

Program and Financing

($ in millions)

Identification Code: 29-0100-0-1-376	FY 2000 Actual	FY 2001 CY	FY 2002 BY
Obligations by program activity:			
09.01 Maintaining Competition	59	69	73
09.02 Consumer Protection	66	78	83
09.03 Reimbursable Program .	1	1	1
09.99 Total Reimbursable Program	126	148	157
10.00 Total New Obligations	126	148	157
Budgetary resources available for obligation:			
21.40 Unobligated balance available, start of year	3	4	4
22.00 New budget authority (gross)	126	148	157
22.10 Resources avaliable from recoveries of prior year obligations	1	...	...
23.90 Total budgetary resources available for obligation	130	152	161
23.95 Total new obligations	-126	-148	-157
24.40 Unobligated balance available, end of year	4	4	4
New budget authority (gross), detail:			
Permanent:			
Spending authority from offsetting collections			
68.00 Offsetting collections (cash)	107	160	208
68.26 Offsetting collections (unavailable balances)	21	2	...
68.45 Portion not available for obligation (limitation on obligations)	-2	-14	-51
68.90 Spending authority from offsetting collections (total)	126	148	157
70.00 Total new budget authority (gross)	126	148	157
Change in unpaid obligations:			
72.40 Unpaid obligations, start of year: Obligated balance, start of year	17	17	12
73.10 Total new obligations [1]	126	148	157
73.20 Total outlays (gross)	-125	-153	-156
73.45 Adjustments in unexpired accounts	-1	...	...
74.40 Unpaid obligations, end of year: Obligated balance, end of year	17	12	13
Outlays (gross) detail:			
86.90 Outlays from new authority	107	136	144
86.93 Outlays from balances	18	17	12
87.00 Total outlays (gross)	125	153	156
Offsets:			
Against gross budget authority and outlays:			
Offsetting collections (cash) from:			
88.00 Federal sources	1	1	1
88.40 Non-Federal sources	106	159	207
88.90 Total offsetting collections (cash)	107	160	208
Net budget authority and outlays:			
89.00 Budget Authority	19	-12	-51
90.00 Outlays (net)	18	-7	-52

[1] Includes $1 million in each fiscal year for obligation of funds reimbursed by other federal agencies.

Object Classification

($ in millions)

Identification Code: 29-0100-0-1-376	FY 2000 Actuals	FY 2001 CY	FY 2002 BY
Reimbursable Obligations			
Personnel Compensation:			
11.1 Full-time permanent	65	74	80
11.3 Other than full-time permanent	7	7	7
11.5 Other personnel compensation	2	2	2
11.9 Total personnel compensation	74	83	89
12.1 Civilian personnel benefits	15	18	20
21.0 Travel and transportation of persons	1	2	2
23.1 Rental payments to GSA	11	12	13
23.2 Rental payments to others	----	1	1
23.3 Comm., utilities & misc. charges	3	3	3
24.0 Printing and reproduction	1	1	1
25.1 Advisory and assistance services	8	11	11
25.2 Other services	2	2	2
25.3 Purchases of goods and services from government accounts	2	2	2
25.4 Operation & maint. of facilities	1	2	2
25.7 Operation & maint. of equipment	1	1	1
26.0 Supplies and materials	1	1	1
31.0 Equipment	6	9	9
99.0 Subtotal, Reimbursable obligations [1]	126	148	157
99.9 Total new obligations	126	148	157

[1] Includes $1 million in each fiscal year for obligation of funds reimbursed by other federal agencies.

Personnel Summary

Identification Code: 29-0100-0-1-376	FY 2000 actual	FY 2001 estimate	FY 2002 estimate
Reimbursable			
2001 Full-time equivalent employment	989 [1]	1,055 [2]	1,080 [2]

[1]Includes 4 FTE reimbursed by other federal agencies.

[2]Includes 6 FTE reimbursed by other federal agencies.

1. Measure was deleted in the Strategic Plan for FYs 2000-2005.
2. Measure was added in the Strategic Plan for FYs 2000-2005.